

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 L-03 DODE-00 SS-15 SP-02 /033 W
-----115751 240659Z /11/43

O 131820Z MAR 78
FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC IMMEDIATE 6623

C O N F I D E N T I A L SECTION 01 OF 02 OTTAWA 01243

C O R R E C T E D C O P Y (TEXT CORRECTED)

E.O. 11652: GDS
TAGS: MILI, CA
SUBJECT: ARGENTIA "NORTH PROPERTIES"

REF: STATE 47137

1. FOLLOWING IS TEXT OF COMMUNICATION DATED MARCH 10,
1978, FROM DEFENSE RELATIONS DIVISION OF DEPARTMENT
OF EXTERNAL AFFAIRS, PROPOSING AMENDMENTS TO OUR REVISED
"ANNEX C." PLEASE NOTE EMBASSY COMMENT FOLLOWING TEXT.

"I REFER TO YOUR LETTER OF FEBRUARY 24 CONCERNING THE
PROPOSED AGREEMENT ON ARGENTIA. WE HAVE NOW HAD AN
OPPORTUNITY TO CONSIDER THE REDRAFTED ANNEX 'C' TO THE
EXCHANGE OF NOTES AND HAVE THE FOLLOWING COMMENTS:

"ANNEX 'C'"

"1. PARAGRAPH 5:

"WE SUGGEST, IN THE INTERESTS OF CLARITY AND TO PROTECT
THE POSITION OF CANADA, THE FOLLOWING WORDS SHOULD BE
INSERTED IN PARENTHESES IN LINE 2 FOLLOWING THE WORD
'SUBLESSEE':

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'(IT IS UNDERSTOOD THAT THE PROVINCE OF NEWFOUNDLAND
SHALL BE CONSIDERED AS A SUBLESSEE IN THE EVENT THAT
CANADA TRANSFERS THE ADMINISTRATION AND CONTROL OF
PART OF THE MANAGEMENT AREA TO NEWFOUNDLAND.)'

"2. PARAGRAPH 5:

"BY VIRTUE OF THE SECOND AND THIRD SENTENCES OF PARAGRAPH 5, THE BASE COMMANDER HAS AN EFFECTIVE RIGHT OF VETO ON ANY SUBLEASE TO BE ENTERED INTO. IT IS CLEAR THAT ANY PROSPECTIVE SUBLESSEE WOULD HAVE TO SPECIFY IN HIS APPLICATION THE USE TO WHICH HE WILL PUT THE LAND AND SUCH USE WILL REQUIRE THE BASE COMMANDER'S APPROVAL. IN ADDITION, THE SUBLEASE COULD SPECIFY THAT ANY FUTURE CHANGE IN USE WOULD AGAIN REQUIRE THE BASE COMMANDER'S APPROVAL. THE ADDITIONAL CONDITION IN THE REDRAFT THAT THE COMMANDER MAY TERMINATE ANY SUBLEASE THAT INTERFERES WITH U.S. ACTIVITIES, HOWEVER, WOULD CONVERT EACH SUBLEASE INTO A LICENSE REVOCABLE BY THE COMMANDER. THIS WOULD BE DIFFICULT FOR THE PROVINCE OR ANY INDUSTRIAL SUBLESSEE TO AGREE TO. WE SUGGEST, THEREFORE, THAT THE LAST SENTENCE OF PARAGRAPH 5 BE DELETED AND THE FOLLOWING TWO SENTENCES SUBSTITUTED IN ITS PLACE:

'ANY SUBLEASE GRANTED WILL SPECIFY THE USE TO WHICH THE SUBLEASED PROPERTY MAY BE PUT. ANY CHANGE OF SUCH USE WITHOUT THE EXPRESS WRITTEN CONSENT OF THE MANAGEMENT AUTHORITY AND THE BASE COMMANDER SHALL NOT BE PERMITTED, AND ANY UNAUTHORIZED CHANGE OF USE SHALL ALLOW THE MANAGEMENT AUTHORITY TO CANCEL THE SUBLEASE IMMEDIATELY.'

"(IF IT IS FELT BY THE NAVAL AUTHORITIES THAT THIS PARAGRAPH MUST BE HORTATORY RATHER THAN PERMISSIVE, WE CONFIDENTIAL

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WILL BE PREPARED TO CONSIDER A REDRAFT TO THAT EFFECT.)

"3. PARAGRAPH 6:

"SINCE THE MANAGEMENT AREA WILL BE UNDER THE CONTROL OF A CANADIAN MANAGEMENT AUTHORITY, IT IS PROPOSED THAT A REFERENCE TO THE COUNTERPART CANADIAN REGULATIONS BE INCLUDED. IT SHOULD BE NOTED THAT THE CANADIAN REGULATIONS ARE VIRTUALLY IDENTICAL TO THOSE OF THE U.S.A. THE LAST SENTENCE OF PARAGRAPH 6 MIGHT THUS BE AMENDED TO READ:

'...IN VIOLATION OF THE STANDARDS SET FORTH IN CANADIAN DEPARTMENT OF TRANSPORT PUBLICATION TP-312 (AERODROME STANDARDS, PHYSICAL CHARACTERISTICS AND ZONING REQUIREMENTS) CHAPTER 4, WHICH IS NOT INCONSISTENT WITH SUBPART C OF PART 77 OF THE REGULATIONS OF THE UNITED STATES FEDERAL AVIATION ADMINISTRATION (14 CODE OF FEDERAL REGULATIONS 77.21 TO 77.29) AS AMENDED.'

"A COPY OF THE CANADIAN REGULATIONS WILL BE FORWARDED FOR YOUR REFERENCE EARLY NEXT WEEK.

"4. PARAGRAPH 8:

"THE OBLIGATION TO MAINTAIN THE SECURITY FENCE SHOULD BE RESTRICTED TO AN OBJECTIVE STANDARD RATHER THAN TO THE BASE COMMANDER'S DISCRETION. THE FIRST SENTENCE MIGHT THUS READ AS FOLLOWS:

'THE MANAGEMENT AUTHORITY WILL MAINTAIN THE SECURITY FENCE...IN A REASONABLE CONDITION.'

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- "OR

'THE MANAGEMENT AUTHORITY WILL MAINTAIN THE SECURITY FENCE...IN A CONDITION SIMILAR TO THE FENCE SURROUNDING THE REST OF THE BASE REMAINING UNDER U.S. CONTROL.'

"PARAGRAPH 11:

"THE REDRAFT COMPLETELY CHANGES THE CONCEPT IN THE CANADIAN DRAFT WHICH PROPOSED THAT THE INNER HARBOUR BE INCLUDED IN THE SUBLEASE AND THUS BE PART OF THE MANAGEMENT AREA. IT STIPULATES THAT THE MANAGEMENT AUTHORITY DESIGNATED BY CANADA WOULD EXERCISE ONLY SUCH CONTROL OVER THOSE WATERS AS IS NECESSARY FOR THE SAFETY AND EFFICIENT OPERATION OF THE MANAGEMENT AREA.

"THE CANADIAN MINISTRY OF TRANSPORT (TRANSPORT CANADA) WISHES THE AREA TO BE DECLARED A PUBLIC HARBOUR AND TO APPOINT A HARBOURMASTER TO MANAGE IT. UNDER THE UNDERSCORE CANADA SHIPPING ACT, END UNDERSCORE, A PUBLIC HARBOUR IS DEFINED AS 'ANY AREA COVERED WITH WATER WITHIN THE JURISDICTION OF THE PARLIAMENT OF CANADA'. IT IS THEREFORE ESSENTIAL THAT THE INNER

HARBOUR, CONSTITUTING THOSE WATERS LYING SOUTHWESTERLY
OF A LINE DRAWN BETWEEN VIRGIN POINT AND BROAD COVE
POINT, SHOULD FORM PART OF THE MANAGEMENT AREA TO BE
SUBLEASED. THIS COULD BE EFFECTED BY REVERTING LARGELY
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TO THE WORDING OF PARAGRAPH 10 OF OUR PROPOSED DRAFT
AGREEMENT AND AMENDING ANNEXES 'A' AND 'B' ACCORDINGLY.

"I SHOULD BE GRATEFUL IF YOU WOULD BRING THE ABOVE
COMMENTS TO THE ATTENTION OF YOUR AUTHORITIES AT YOUR
EARLIEST CONVENIENCE. IF OUR PROPOSED AMENDMENTS ARE
ACCEPTABLE, WE SHOULD BE GRATEFUL IF YOU WOULD INFORM
US OF THE EARLIEST DATE UPON WHICH AN ANNOUNCEMENT OF
THIS AGREEMENT MIGHT BE MADE."

2. COMMENT: SUBSEQUENT TO RECEIPT OF ABOVE TEXT,
GORDON LONGMUIR OF DEFENSE RELATIONS DIVISION, EXTAFF,
TELEPHONED US TO ASK THAT STATE AND DEFENSE GIVE THIS
MATTER URGENT ATTENTION. LONGMUIR FRANKLY ADMITTED THAT
REASON FOR URGENCY IS "POLITICAL," I.E. FEDERAL ELECTIONS
MINISTER JAMIESON WOULD LIKE TO BE ABLE TO ANNOUNCE IN
A SPEECH HE PLANS TO GIVE IN NEWFOUNDLAND MARCH 23
THAT AGREEMENT ON ARGENTIA "NORTH PROPERTIES" HAS BEEN
REACHED OR WILL BE CONCLUDED SHORTLY. LONGMUIR
BY MARCH 23 TO ALL POINTS RAISED IN ABOVE COMMUNICATION,
BUT HE INDICATED EXTAFF WOULD GREATLY APPRECIATE A
FAVORABLE RESPONSE BY THEN TO PROPOSAL THAT INNER
HARBOR BE INCLUDED IN THE SUBLEASE.
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